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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/682,422	08/31/2001	John Joseph DiEnno	9D-DW-19893	7785
23465 7590 04/12/2007 JOHN S. BEULICK C/O ARMSTRONG TEASDALE, LLP ONE METROPOLITAN SQUARE SUITE 2600 ST LOUIS, MO 63102-2740			EXAMINER HANSEN, JAMES ORVILLE	
			ART UNIT 3637	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		04/12/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

09/682,422

Applicant(s)

DIENNO ET AL.

Examiner

James O. Hansen

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 January 2007.
- 2a) ☒ This action is **FINAL**.      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 and 9-20 is/are pending in the application.
- 4a) Of the above claim(s) 3,6 and 10-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,5,7 and 9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter that the applicant regards as his invention.
2. Claims 1, 2, 4, 5, 7 & 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In the claims as presently amended, the recitation of the "plurality of formations" is still unclear and confusing as presently worded in view of the disclosure [specification and drawings] as originally filed. It is not clear how a plurality of formations depending downwardly from a lower edge each comprise a lip and a flange, for example [claim 1], or a panel engagement portion, a lip and guide surface for example, [claim 7]. Previously, the examiner noted that the slot must somehow be defined by the combination of the lip and rib or the lip and guide surface/flange. The position is taken that a plurality of formations, i.e., a lip, a flange, a rib etc., may be present and thereby would constitute an accurate depiction, but it appears that the set of the plurality of formations includes these elements [lip, flange, rib] as forming the formations as opposed to each formation including these elements as presently claimed. It is noted on the bottom of page 7 and continuing on page 8 of the specification that "in one embodiment, formations include an elongated retaining slot... and a plurality of ribs" interpreted by the examiner as meaning that each of the elements constitute a formation with a plurality of these distinct formations comprising the means for defining the slot that accepts the door panel. Accordingly, stating that there are a plurality of formations depending from a lower edge of the control panel mounting surface/portion is accurate in view of the disclosure, while

Art Unit: 3637

further stating that each of the plurality of formations comprises various elements appears to be an inaccurate representation in view of the disclosure [a plurality of formations are present, wherein the combination of the plurality of formations provide the means by which the panel is accepted]. Applicant is required to clarify the disclosed claimed material, making the language of the claims consistent with applicant's intent. Consequently, the remaining claims are rejected since they are dependent on an indefinite claim.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 7 & 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Sulcek [U.S. Patent No. 4,478,465]. Sulcek (figures 1-4) teaches of an “escutcheon” for an appliance door assembly, the escutcheon comprising: a front edge and a rear edge horizontally spaced from the front edge, the front and rear edges vertically depending from an escutcheon upper surface; a control panel mounting portion comprising a mounting surface and a lower edge, the control panel mounting portion extending upwardly and inwardly from the lower edge and between the front and rear edges, the control panel mounting portion including a plurality of inherent openings there through; and “a plurality of formations” [note interpretation as per 112(2) rejections] downwardly depending from the lower edge and defining “each of the plurality of formations” comprising a lip and a flange spaced from the lip to define a retaining slot there between, the flange extending at an acute angle with respect to the lip, the

Art Unit: 3637

retaining slot configured to receive an upper edge of a panel on the appliance door [see Exhibit C]. The position is taken that Sulcek teaches the claimed limitations in the same manner that applicant discloses, as best understood, in view of the disclosure as originally filed wherein the formation(s) consists of a continuous lip (228) with a flange/guide surface (230) forming a slot (232).

5. Claims 7 & 9 are rejected under 35 U.S.C. 102(b) as being anticipated by McPherson et al., [U.S. Patent No. 5,466,062]. McPherson (figures 1-4) teaches of an “escutcheon” (14) capable of use as a dishwasher door assembly, the escutcheon comprising a lower edge (top edge of 44 for example) of a control panel mounting portion (portion above 44 for example, in as much as applicant depicts a general representation of a control panel mounting portion) and a plurality of formations (44) depending therefrom, each formation of the plurality of formations comprising a panel engagement portion (64), a lip (viewed as the vertical portion of 54 surrounding 44), and a guide surface (66) formed at an acute angle with respect to the lip (in the same manner that applicant’s guide surface is formed at an acute angle with respect to the lip), the guide surface and the lip defining a retaining slot (note the slot formed as depicted in fig. 4) there between, with the retaining slot configured to receive an upper edge of a panel on the dishwasher door, wherein the panel engagement portion extends substantially parallel to the lip. The position is taken that McPherson teaches the claimed limitations in the same manner that applicant discloses, as best understood, in view of the disclosure as originally filed wherein the formation(s) consists of a continuous lip (228) with a flange/guide surface (230) forming a slot (232).

***Allowable Subject Matter***

6. Pending further consideration and the clarification relating to “formations” limitation, Claims 2, 4 & 5 may be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

7. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

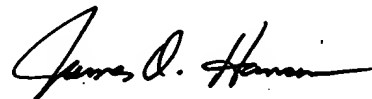
8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James O. Hansen whose telephone number is 571-272-6866. The examiner can be reached on Monday-Friday between 8-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



James O. Hansen  
Primary Examiner  
Art Unit 3637

JOH  
April 11, 2007

# Exhibit "C"

